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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,544	01/16/2002	Trevor Graham Blease	P 290580 UQI 50807/USW	1801
43569	7590	12/01/2006	EXAMINER	
MAYER, BROWN, ROWE & MAW LLP 1909 K STREET, N.W. WASHINGTON, DC 20006			RAMACHANDRAN, UMAMAHESWARI	
			ART UNIT	PAPER NUMBER
			1617	

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/046,544

Applicant(s)

BLEASE ET AL.

Examiner

Umamaheswari Ramachandran

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10, 11 and 15-28 is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-9, 12, 13 and 29 is/are rejected.
- 7) ☒ Claim(s) 4-6 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The examiner acknowledges the receipt of the remarks/arguments and amendments received on 7/12/2006. Claims 1-29 are pending.

Applicant's response to the amendments is accepted and the 112(2) rejections are withdrawn. The double patent rejections are maintained until the application is otherwise in condition for allowance.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 7-9, 12, 13 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinker et al (WO 96/32839) in view of Ulsperger (DE 1220438).

Brinker et al. teaches an herbicidal composition comprising glyphosate and etheramine surfactant (formulas A, B, C, see Abstract). The reference teaches that the efficacy of glyphosate can significantly be enhanced by the addition of one or more surfactants in the composition. The reference further teaches that the addition of surfactants act by facilitating the penetration of glyphosate, a relatively hydrophilic compound, through the rather hydrophobic cuticle, which normally covers the external above-ground surfaces of higher plants. The reference does not teach the surfactant compound of formula (I).

Ulsperger teaches a surface-active agent of formula (I) (col.1 lines 15-25). The reference further teaches that polyhydroxyalkyl amines are capable of strongly reducing the surface tension of the aqueous solutions in small concentrations.

Accordingly it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to combine an agrochemically compound such as glyphosate along with a surfactant to enhance the efficacy of the herbicide. The motivation to do is provided by Brinker et al. and Ulsperger. Brinker et al. teaches that the addition of surfactants act by facilitating the penetration of glyphosate, a relatively hydrophilic compound, through the rather hydrophobic cuticle, which normally covers the external above-ground surfaces of higher plants. Ulsperger teaches that polyhydroxyalkyl amines are capable of strongly reducing the surface tension of the aqueous solutions in small concentrations.

### **Objections to claims**

Claims 4-6 and 14 are objected to as being dependent upon rejected claims, but would be allowable if rewritten in independent form including all the limitations of the base claims and any intervening claims.

### ***Conclusion***

Claims 10, 11, 15-28 are free of prior art.

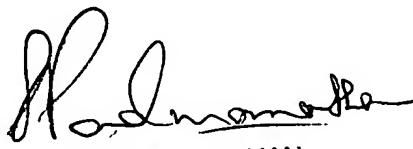
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Umamaheswari Ramachandran whose telephone number is 571-272-9926. The examiner can normally be reached on M-F 8:30 AM - 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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SREENI PADMANABHAN  
SUPERVISORY PATENT EXAMINER